

**PROPOSED REGULATION OF THE
COMMITTEE ON TESTING FOR INTOXICATION**

LCB File No. R132-23

February 1, 2024

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: § 1, NRS 484C.620; §§ 2 and 3, NRS 484C.630.

A REGULATION relating to breath-testing devices; revising provisions relating to forensic analysts of alcohol; revising provisions relating to the certification of operators of evidential breath-testing devices; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Committee on Testing for Intoxication to adopt regulations which establish methods for ascertaining the competence of persons to calibrate breath-testing devices and provide for the certification of those persons by the Department of Public Safety. (NRS 484C.620) **Section 1** of this regulation revises the required documents that a person who is certified to calibrate breath-testing devices, known as a forensic analyst of alcohol, must submit when applying for recertification.

Existing law requires the Committee to adopt regulations which provide for the certification of operators of evidential breath-testing devices. (NRS 484C.630) **Sections 2 and 3** of this regulation revise provisions relating to certain courses required to be completed for the certification or recertification of an operator of an evidential breath-testing device by removing the requirement that such courses be approved by the Peace Officers’ Standards and Training Commission.

Section 1. NAC 484C.030 is hereby amended to read as follows:

484C.030 The Director or his or her designee shall renew the certificate of any person certified by him or her as a forensic analyst of alcohol who applies in writing to the Director for a renewal before the certificate expires and:

1. Successfully completes a course approved by the Committee, consisting of at least 8 hours of instruction on the subjects taught in the basic course described in paragraph (c) of

subsection 2 of NAC 484C.020 and demonstrates the person's competence in calibrating breath-testing devices and in evaluating others on their competence in operating such devices; or

2. Submits to the Director or designee the following documents:

(a) A current resume of the person's education and other qualifications.

(b) Verification of attendance at no less than two seminars or training programs related to the influence of alcohol on drivers. The verification must include the dates of attendance, the names of the instructors and speakers, and a general description of the curriculum.

(c) ~~Proof of acceptance as an expert in the field of breath alcohol testing in no less than four courts of law. The proof must include the names of the courts, date of acceptance and the names of the cases for which the person was accepted as an expert.~~

~~(d)~~ Verification of continued activity in the field of breath alcohol testing since the person's previous certification.

Sec. 2. NAC 484C.100 is hereby amended to read as follows:

484C.100 1. A person or his or her employer must apply to the Department of Public Safety on a form furnished by the Department for certification of the person as an operator of an evidential breath-testing device.

2. The Director or his or her designee shall certify as an operator of an evidential breath-testing device each applicant who has successfully completed a course of instruction on the subject of the operation of devices for testing a person's breath to determine the concentration of alcohol in the person's breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee. Such a course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the devices for which certification is granted.

3. The Director or his or her designee shall certify as an operator of an additional evidential breath-testing device each applicant who:

- (a) Holds a current certification as an operator of an evidential breath-testing device; and
- (b) Has successfully completed a course consisting of instruction on the subject of the operation of the device for testing a person's breath to determine the concentration of alcohol in the person's breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee. The course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the device for which certification is granted.

4. The certificate issued by the Director or his or her designee must specify by manufacturer and model the evidential breath-testing devices which the applicant has been certified to operate.

5. Certification as an operator of an evidential breath-testing device:

- (a) Authorizes the holder of the certificate to operate any evidential breath-testing device which he or she has been certified to operate and any other such device in a series of the model of that specific evidential breath-testing device if the Committee has certified the other device in the series pursuant to NRS 484C.610 and the Committee has not made a finding that the person needs additional training to operate the other device in the series; and

- (b) Is valid for 3 years after the date of the certification.

Sec. 3. NAC 484C.110 is hereby amended to read as follows:

484C.110 The Director or his or her designee shall renew the certificate of any person certified by the Director or designee as an operator of an evidential breath-testing device who:

1. Individually or through the person's employer applies in writing to the Director for such renewal before the person's certificate expires or within 6 months after the person's certificate expires; and

2. Successfully completes a course consisting of instruction on the operation of devices for testing a person's breath to determine the concentration of alcohol in his or her breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee.